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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,404	12/15/2003	William Sobonya	MAEE 2 00035	6236
27885	7590	12/08/2005	EXAMINER	
FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP 1100 SUPERIOR AVENUE, SEVENTH FLOOR CLEVELAND, OH 44114			RUDDOCK, ULA CORINNA	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 12/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/736,404

Applicant(s)

SOBONYA, WILLIAM

Examiner

Ula C. Ruddock

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. The Examiner has carefully considered Applicant's response filed September 19, 2005.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Terminal Disclaimer***

3. The terminal disclaimer filed on September 19, 2005, disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 10/736405 has been reviewed and is accepted. The terminal disclaimer has been recorded.

### ***Claim Rejections - 35 USC § 103***

4. Claims 1-5, 7, 8, 10, 11 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawley et al. (US 6,130,174) in view of Hamilton et al. (US 2005/0112314) and Pantaleo et al. (US 4,738,888). Hawley et al. disclose a laminate having nonslip characteristics. The laminate comprises a smooth film and a scrim (abstract). The scrim is woven plastic scrim (col 2, ln 56-58) coated by a polyvinyl chloride plastic (claim 1). A vinyl plastic film (col 3, ln 4-10) is laminated to the scrim via an adhesive (col 4, ln 40-42). The vinyl film has a thickness of .004-.008 inches, 4-8 mils (col 2, ln 5-7). Hawley et al. disclose the claimed invention except for the teaching that the laminate is embossed and that a clear polypropylene protective layer is adhered to the vinyl film.

Hamilton et al. (US 2005/0112314) disclose a high bond strength, repositionable adherent sheet. The sheet material can be used in shelves [0034]. The sheet material can be embossed [0030 & 0072] on the front surface [0003]. Pantaleo et al. (US 4,738,888) disclose a serving mat that includes a pair of superimposed sheets sealed to each other (abstract). The upper sheet is

transparent (col 1, ln 30-33). The placemat has an additional lower layer of a non-slip material (col 2, ln 59-64). It would have been obvious to one having ordinary skill in the art to have used Hamilton's embossing steps on the laminate of Hawley et al., motivated by the desire to create a laminate having a pattern or design on the surface. It would have been obvious to have used the clear polypropylene upper sheet of Pantaleo et al. on the laminate of Hawley et al., motivated by the desire to create a laminate that has a desired aesthetic appearance.

***Rejection is maintained.***

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hawley et al. (US 6,130,174), Hamilton et al. (US 2005/0112314) and Pantaleo et al. (US 4,738,888) as applied to claim 1 above, and further in view of Owen (US 5,874,371). Hawley et al., Hamilton et al., and Pantaleo et al. disclose the claimed invention except for the teaching that the scrim comprises a non-woven scrim.

Owen (US 5,874,371) discloses a non-skid covering for use on a surface (abstract). The scrim comprises a PVC coated non-woven scrim (claims 5 and 6). It would have been obvious to have used Owen's coated non-woven scrim as the scrim in the laminate of Hawley et al., Hamilton et al., and Pantaleo et al., motivated by the desire to create a laminate having cheaper processing costs.

***Rejection is maintained.***

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hawley et al. (US 6,130,174), Hamilton et al. (US 2005/0112314) and Pantaleo et al. (US 4,738,888), as applied to claim 1 above, and further in view of Aliabadi (US 2003/0036323). Hawley et al., Hamilton et al.,

and Pantaleo et al. disclose the claimed invention except for the teaching that the scrim is a polyester.

Aliabadi (US 2003/0036323) disclose a shelf liner comprising a top layer of a smooth polyvinyl chloride covering a sandwich layer of a polyester fabric between layers of polyvinyl chloride (abstract). A layer of polyester mesh fabric is between layers of polyvinyl chloride [0023]. It would have been obvious to have used the polyester mesh of Aliabadi in the laminate of Hawley et al., Hamilton et al., and Pantaleo et al., motivated by the desire to create a laminate having the effects and properties associated with polyester.

***Rejection is maintained.***

7. Claims 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawley et al. (US 6,130,174) in view of Hamilton et al. (US 2005/0112314) and Pantaleo et al. (US 4,738,888) and Schottenfeld (US 2002/0094404). Hawley et al. disclose a laminate having nonslip characteristics. The laminate comprises a smooth film and a scrim (abstract). The scrim is woven plastic scrim (col 2, ln 56-58) coated by a polyvinyl chloride plastic (claim 1). A vinyl plastic film (col 3, ln 4-10) is laminated to the scrim via an adhesive (col 4, ln 40-42). The vinyl film has a thickness of .004-.008 inches, 4-8 mils (col 2, ln 5-7). Hawley et al. disclose the claimed invention except for the teaching that the laminate is embossed and that a clear polypropylene protective layer is adhered to the vinyl film and that there is a protective removable covering on the laminate.

Hamilton et al. (US 2005/0112314) disclose a high bond strength, repositionable adherent sheet. The sheet material can be used in shelves [0034]. The sheet material can be embossed [0030 & 0072] on the front surface [0003]. Pantaleo et al. (US 4,738,888) disclose a serving mat

that includes a pair of superimposed sheets sealed to each other (abstract). The upper sheet is transparent (col 1, ln 30-33). The placemat has an additional lower layer of a non-slip material (col 2, ln 59-64). Schottenfeld (US 2002/0094404) discloses a liner for covering a generally smooth surface comprising a PVC sheet [0019] and a PVC coated scrim [0020]. A release layer is added to the liner [0024]. It would have been obvious to one having ordinary skill in the art to have used Hamilton's embossing steps on the laminate of Hawley et al., motivated by the desire to create a laminate having a pattern or design on the surface. It would have been obvious to have used the clear polypropylene upper sheet of Pantaleo et al. on the laminate of Hawley et al., motivated by the desire to create a laminate that has a desired aesthetic appearance. It would have been obvious to have used the release layer of Schottenfeld in the laminate of Hawley et al., Hamilton et al., and Pantaleo et al., motivated by the desire to create a laminate that has improved handling characteristics.

***Rejection is maintained.***

#### ***Response to Arguments***

8. Applicant's arguments filed September 19, 2005, have been fully considered but they are not persuasive for the reasons set forth. Applicant argues that Hamilton does not teach that the adherent sheet may be repositioned after final application. This argument is not commensurate in scope because the claims, as presently written, do not require that the adherent sheet be able to be repositioned after final application. Applicant also argues that the film sheet described by Hamilton does not correspond to the vinyl film or clear polypropylene protective layer. While this is true, it should be noted that the Examiner has not relied on Hamilton in the rejection for its teaching

of a vinyl film or a clear polypropylene protective layer. Hamilton was relied upon for its embossing disclosure. Hawley was used in the rejection for its disclosure of a vinyl film and Pantaleo was used for its disclosure of a clear polypropylene layer. Applicant also argues that Hawley's reasons for embossing and embossing location differ from those in the present invention. This argument is also not commensurate in scope because Applicant's do not specify which layer is embossed. Applicant only discloses that the covering as a whole is embossed. Applicant also argues the combination of Hawley and Hamilton. This argument is not persuasive because both references are drawn to shelf liner materials and embossing would increase the non-slip characteristics of the liner. Therefore, these references are properly combinable. Finally, Applicant argues that the purpose of the transparent upper sheet of Pantaleo differs from the purpose of the clear polypropylene protective layer recited in the present invention. Applicant's argument are not persuasive because the fact that Applicant uses the transparent upper sheet for a different purpose does not alter the conclusion that its use in a prior art device would be *prima facie* obvious from the purpose disclosed in the reference. *In re Lintner*, 173 USPQ 560. Therefore, all rejections have been maintained.

### ***Conclusion***

**9. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the

THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ula C. Ruddock whose telephone number is 571-272-1481. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H. Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

UCR *ucr*

*Ula Ruddock*  
**Ula C. Ruddock**  
Primary Examiner  
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